

Overview/History of CERCLA

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The Origin of CERCLA

- Up through the 1970s, it was a different world. You could dump your TCE, dioxin, PCBs, in abandoned canals, on farms, in any landfill!
- Two sites drew significant media attention:
 - Love Canal in Niagara Falls, New York
 - “Valley of the Drums” in Brooks, Kentucky



Love Canal





Valley of the Drums



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Legislative Overview

- 1980: CERCLA
- 1986: Superfund Amendments and Reauthorization Act (SARA)
- 1996: Asset Conservation, Lender Liability, and Deposit Insurance Protection Act
- 1999: Superfund Recycling Equity Act
- 2002: Small Business Liability Relief and Brownfields Revitalization Act
- 2006: Final Rule for All Appropriate Inquiry



Key Provisions of CERCLA

- Created a Hazardous Substance Trust Fund to pay for cleanup; EPA may use this fund to clean up sites.
- Provides legal authority to respond to a release or substantial threat of a release of:
 - A hazardous substance
 - Any pollutant or contaminant which may present an imminent and substantial endangerment
- Establishes a National Priorities List.



Key Provisions of CERCLA

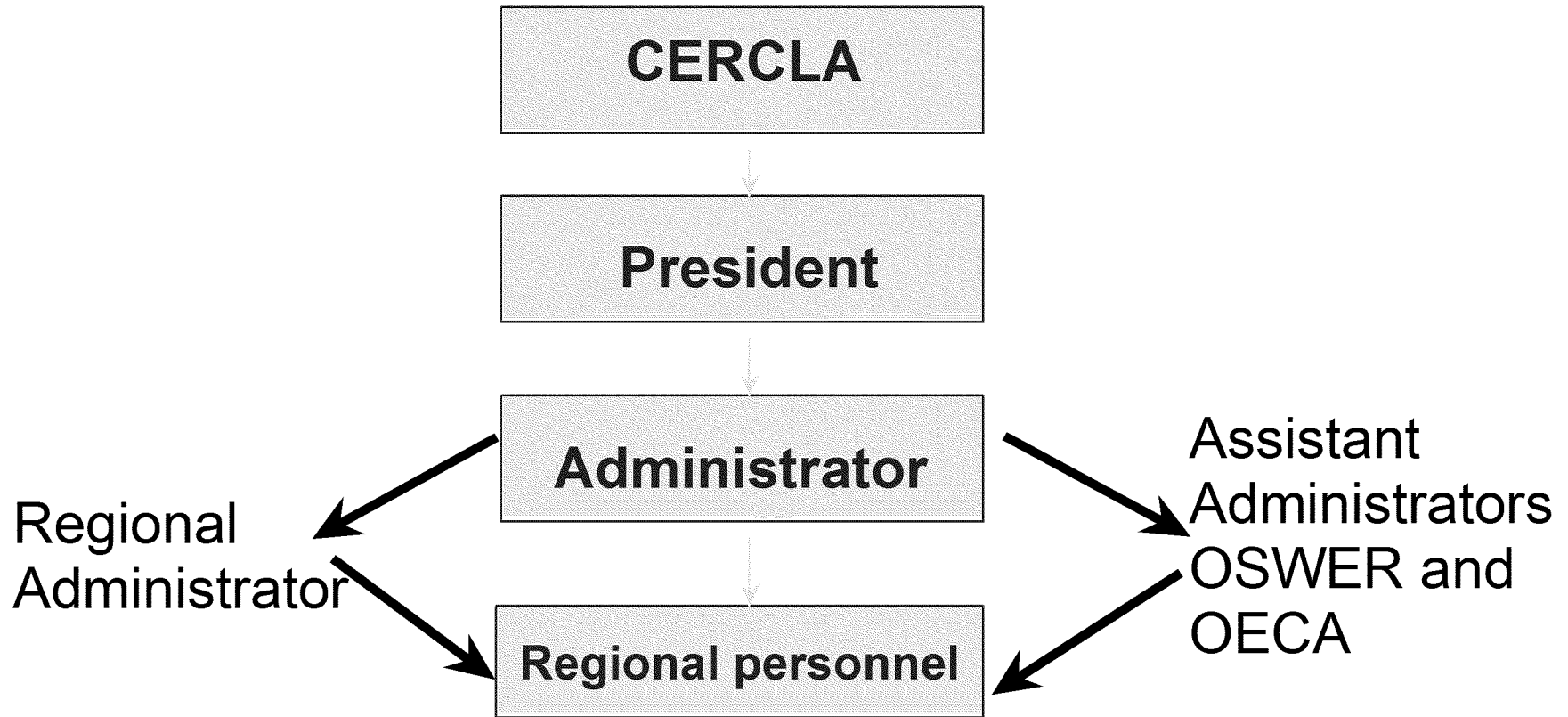
- Provides two types of response actions:
 - Removal action
 - Remedial action
- Provides opportunities for public involvement in the selection of response actions.
- Requires administrative record for response selection.
- Encourages participation of states and tribal governments in response actions.



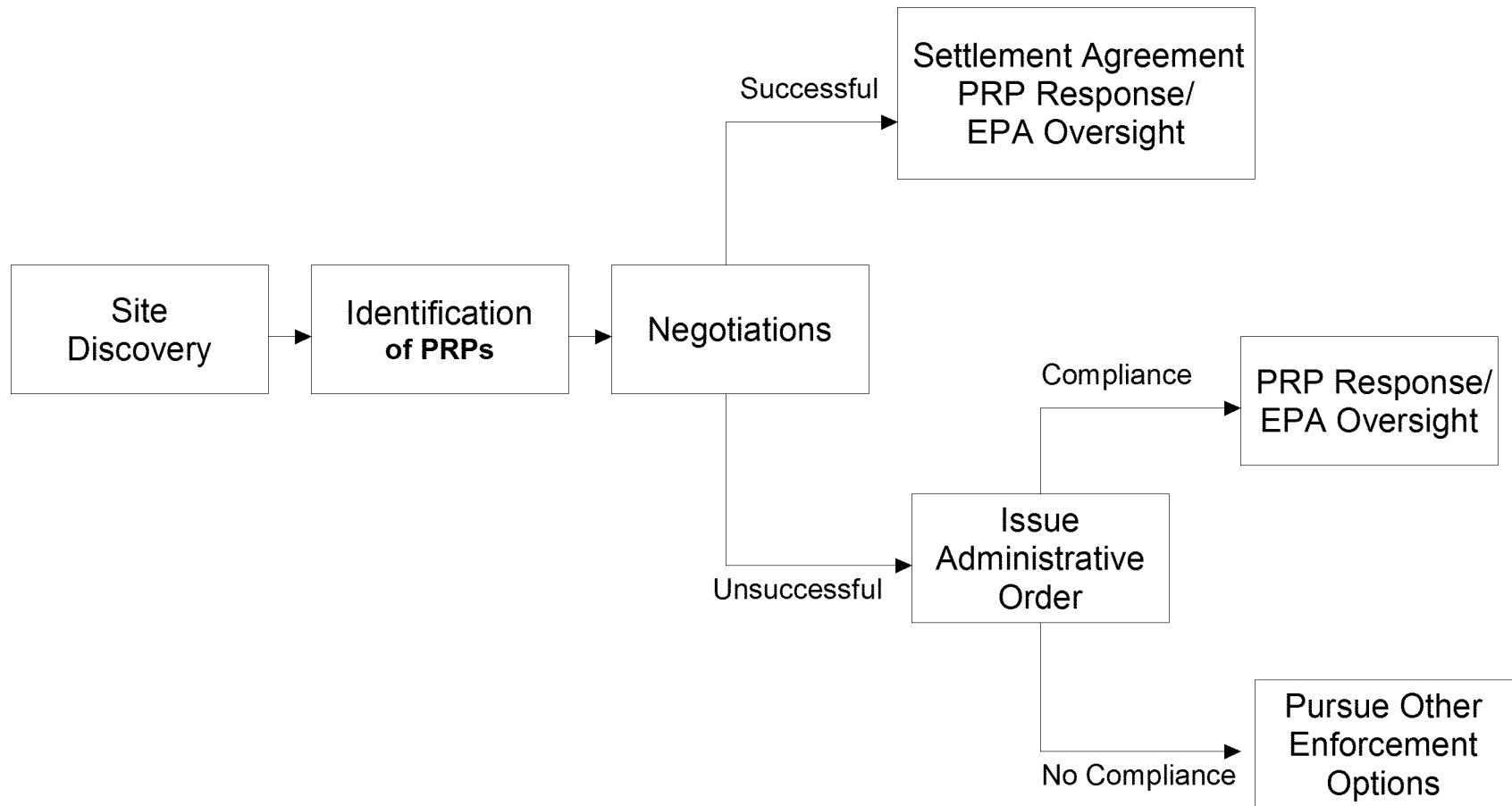
Key Provisions of CERCLA

- Holds responsible parties liable for cleanup of hazardous substances.
- Sets forth a settlement process, both judicial and administrative.
- Provides authority to initiate civil litigation for injunctive relief and for cost recovery.

Delegation of Statutory Authorities To EPA



CERCLA Enforcement Process





Paying for Response Actions

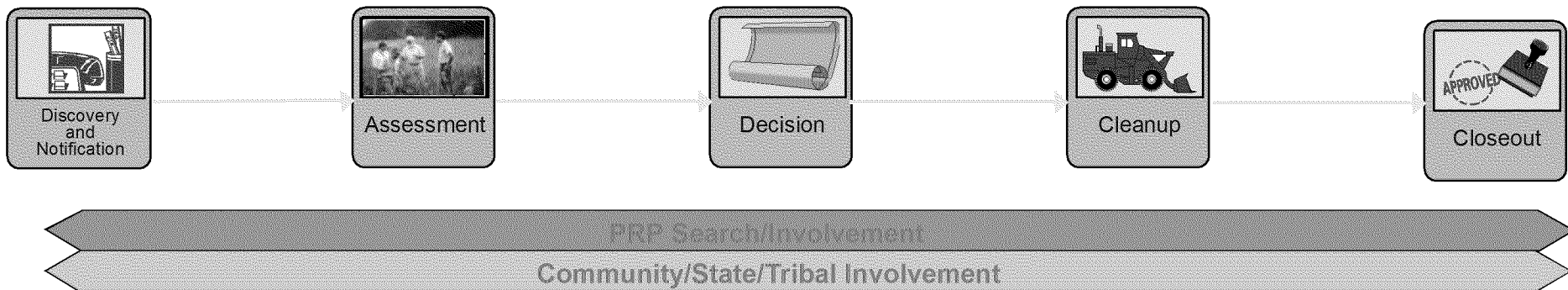
- CERCLA provides three options:
 - Conduct response actions using monies from the Trust Fund (Fund-financed) and recover costs from PRPs (Section 104 and 107)
 - Enter into settlement agreements with PRPs that require them to perform cleanup or pay (Section 106 and 122)
 - Compel PRPs to perform cleanup through orders or civil litigation (Section 106)



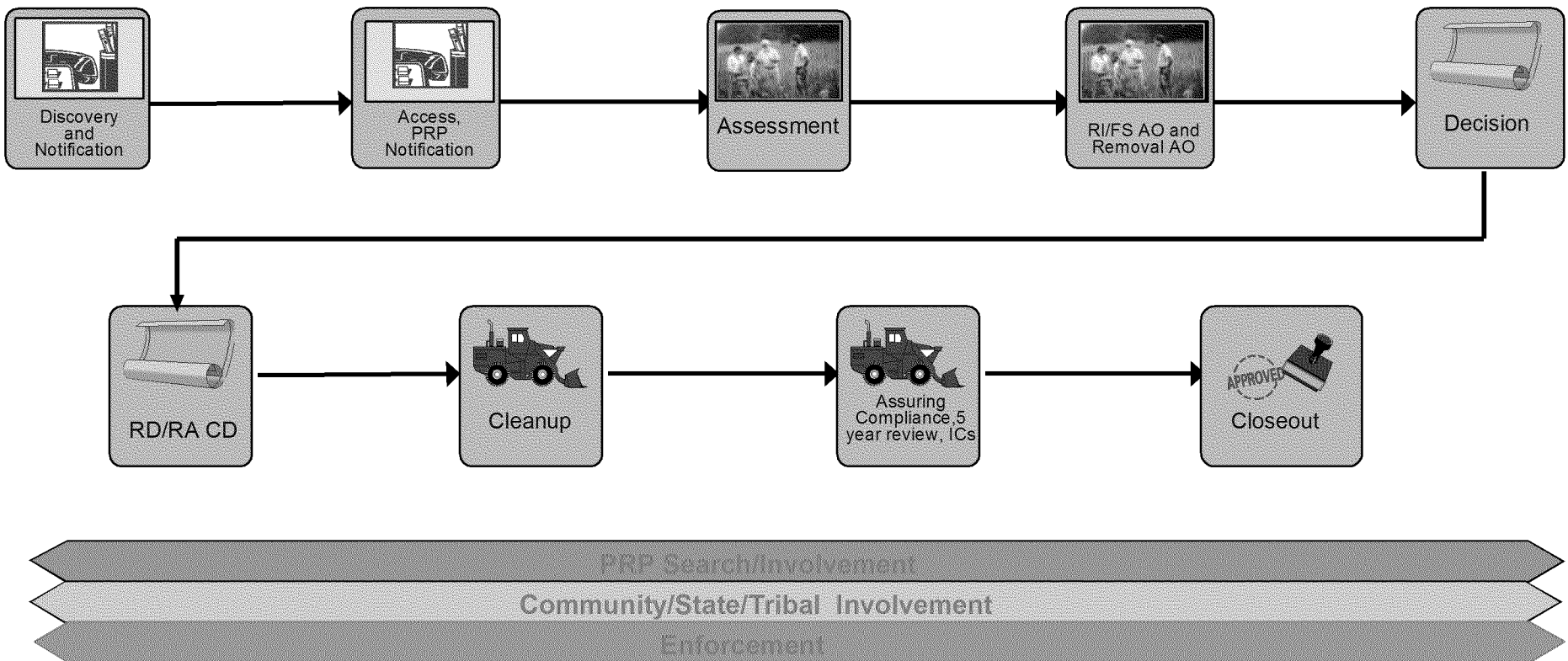
The NCP

- Provides the “blueprint” for conducting removals, Remedial Investigation/Feasibility Studies, and remedial responses under CERCLA (and responses to discharges of oil under CWA/OPA)
- Provides for involvement of state and natural resource trustees, public participation, and the administrative record requirements
- Provides standards for conducting AAI

Overview of the Response Process under CERCLA and the NCP



Overview of the Response and Enforcement Process under CERCLA and the NCP





CERCLA Enforcement Authorities

- Section 104(e) – Access and Information requests
- Section 106 – Injunctive relief (Administrative orders and judicial action)
- Section 107(a) – Liability and cost recovery
- Section 122 – Settlements



Role of States

- NCP Subpart F
 - State Assurances for fund-lead remedial actions (SSC)
 - Involvement in cleanup process
 - Involvement in RD/RA settlements
 - Cooperative Agreements
 - Core funding
 - Site Specific funding



Legal Agreements with EPA

- Administrative
 - Administrative Settlement Agreements and Orders on Consent
 - Engineering Evaluation/Cost Analysis
 - Removal
 - RI/FS
 - *De Minimis*
 - Remedial Design
 - Cash Out
 - Peripheral Party



Legal Agreements with EPA

- Judicial
 - Consent Decrees
 - Remedial Action
 - Remedial Design/Remedial Action
 - Cash Out
 - Ability to Pay
 - Cost Recovery
 - Peripheral Party



Legal Agreements with EPA

- Superfund State Contract - Agreement between EPA and the State which provides that State assures payment of 10% of remedial action costs and 100% of O&M costs at a Fund-lead site.
 - Required by Sections 104(c), 104(j), 121(f) of CERCLA and 40 CFR 300.515(g) of the NCP.



Compulsory Orders

- Unilateral Administrative Order
 - Removal Actions
 - Access
 - RI/FS
 - Remedial Design/Remedial Action
 - Compliance with Information Request

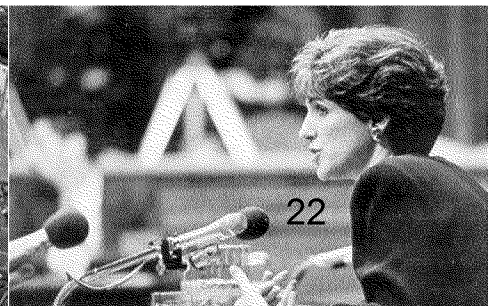
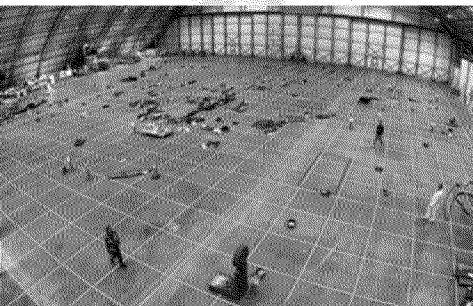


State Voluntary Cleanup Programs

- Agreements between states and PRPs to perform clean-up actions
 - Requirements
 - Types of sites
- Grant eligibility
- Section 128
 - Exclusion for EPA enforcement or cost recovery
 - Exceptions to exclusion



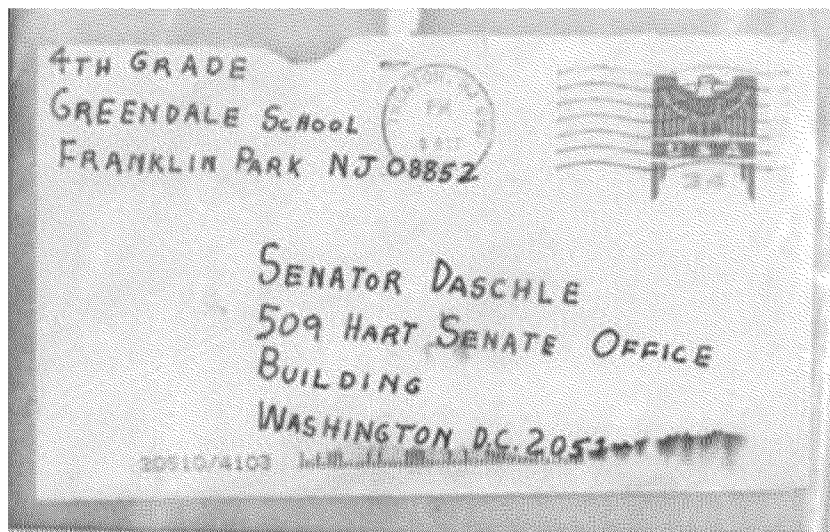
The Program Today



EPA Responds to Terrorist Attacks – 2001



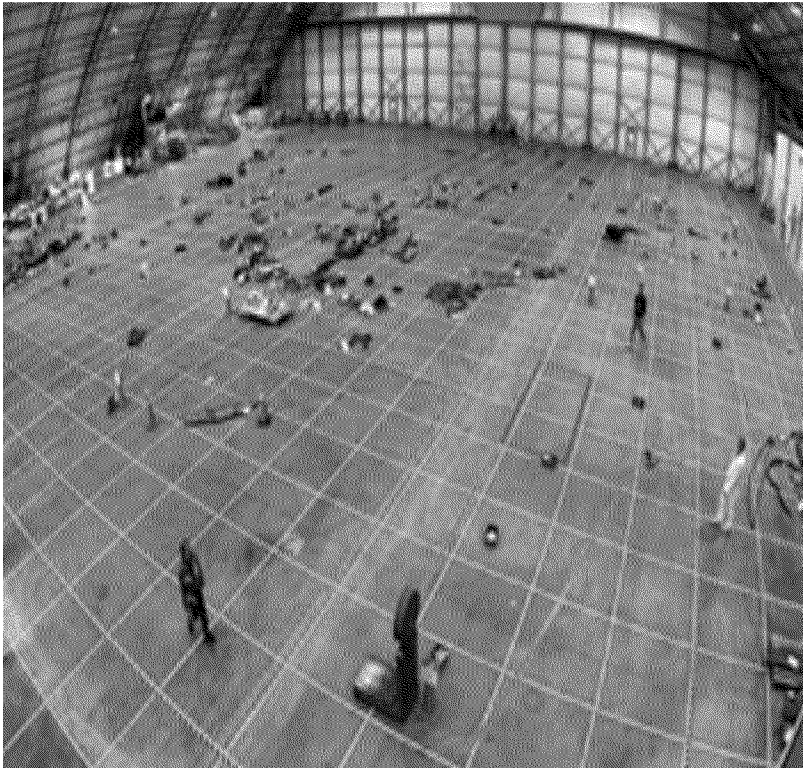
Anthrax Activities at Capitol Hill – 2001



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Space Shuttle *Columbia* Debris Recovery - 2003





Hurricane Katrina Cleanup 2005

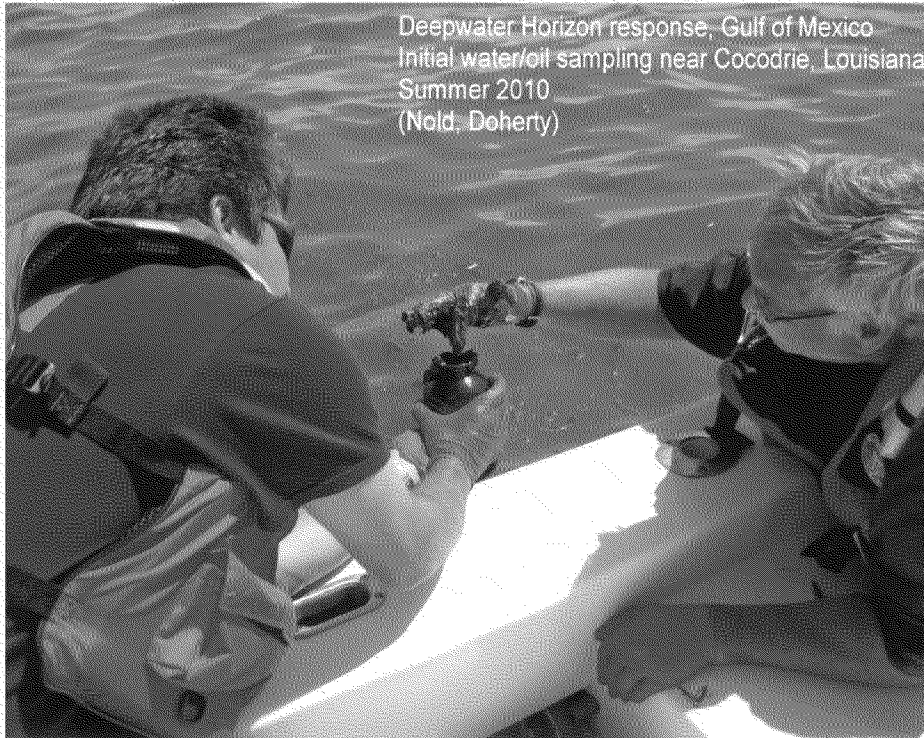


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Deepwater Horizon Response - 2010





Joplin, MO Response 2011



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Hurricane Sandy Response 2012





Baxter Springs Mining Site



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Baxter Springs – Post Cleanup



Chicago Heights / Missouri Metals: Vapor Intrusion





Real-World Issues

- Carter Carburetor, St. Louis, MO
- West Lake Landfill, Bridgeton, MO (links)
- Missouri Electric Works, Cape Girardeau, MO



Superfund in the Media: A Civil Action





The Brownfields Program

- Related initiatives created under Superfund, RCRA, and UST programs
- 2002 Brownfields legislation and CERCLA
 - Defines a Brownfield site
 - Amends the liability provisions under CERCLA
 - Allows sites with petroleum contamination to be addressed with grant money



Reuse, Redevelopment

- Goal: to maximize cleanup and the redevelopment of contaminated properties
- Role of enforcement in promoting reuse
- Tools for sites where EPA involvement can help
- Environmentally Responsible Redevelopment and Reuse Initiative (ER3)



ER3

- Provides enforcement and liability relief incentives to encourage sustainable redevelopment of contaminated land
- ER3 Prospective Purchaser Agreement:
 - Whether significant environmental benefit will be derived from the project in terms of cleanup, reimbursement of EPA costs, or new use; and
 - Whether there is a significant need for the PPA in order to accomplish the project's goals
- Comfort/Status Letters



Where Government Attorneys Fit In

- EPA
 - HQ Attorneys
 - Regional Attorneys
- DOJ
 - EES
 - EDS
 - U. S. Attorneys
- State Attorneys
- Other Federal agency attorneys